

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA**

United States of America,	)	
	)	<b>AMENDED ORDER</b>
Plaintiff,	)	<b>FOR SALE OF PROPERTY</b>
	)	
v.	)	Case No. 1:18-cv-040
	)	
Bruce E. Johnson, Elizabeth L. Johnson,	)	
North Dakota Office of State Tax	)	
Commissioner, and Ward County Treasurer,	)	
	)	
Defendants.	)	

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The Court entered final judgment in this action on April 22, 2021 (Doc. No. 48), in favor of the Plaintiff the United States and against Defendant Bruce Johnson, for unpaid tax liabilities in the amounts of \$961,478.18 (Count I - federal income taxes) plus interest, \$88,516.82 (Count II - federal unemployment taxes) plus interest, and \$463,274.81 (Count III - federal employment taxes) plus interest. The judgment also ordered that the federal tax liens associated with those liabilities be enforced and that the real property located at 920 55th Street SE in Minot, North Dakota 58701 (the "Property") be sold and the net proceeds, after payment of expenses of sale, be distributed equally to the United States and defendant Elizabeth L. Johnson. According to the disclaimer filed by the North Dakota Office of State Tax Commission ("Commissioner") (Doc. No. 22), the Court ordered that no proceeds be distributed to the Commissioner. The real property consists of two adjoining parcels, which are more fully described as follows:

**Outlot 42 of SE ¼ SE ¼ Section 21, Township 155 North, Range 82 West ("Parcel 1")**

and

**Township 155 North, Range 82 West of the 5th P.M. Section 21: Outlot 33 of the E ½ SE ¼, LESS the South 135 feet thereof ("Parcel 2")**

The Court now **ORDERS** that the Property shall be sold, pursuant to 26 U.S.C. § 7403(c), in order to collect the unpaid federal tax liabilities as follows:

1. The Internal Revenue Service (“IRS”) Property Appraisal and Liquidation Specialists (“PALS”) are authorized to offer for public sale and to sell the Property.
2. **Terms and Conditions:** The terms and conditions of the sale are set forth below.

- a. The sale of the Property shall be by public auction to the highest bidder, free and clear of all rights, titles, claims, liens, and interests of all parties to this action, including Plaintiff the United States and Defendants Bruce Johnson, Elizabeth Johson, and the North Dakota Office of State Tax Commissioner, and any successors in interest or transferees of those parties.

- b. The sale shall be subject to building lines, if established, all laws, ordinances, and governmental regulations (including building and zoning ordinances) affecting the Property, and easements, restrictions, and reservations of record, if any.

**Sale Location**

- c. The sale shall be held either at the courthouse of the county or city in which the Property is located or on the Property's premises.

**Notice of Sale**

- d. The PALS shall announce the date and time for the sale.

- e. Notice of the sale shall be published once a week for at least four consecutive weeks before the sale in at least one newspaper regularly issued and of general circulation in Ward County and, at the discretion of the PALS,

by any other notice or advertisement that the PALS deems appropriate. The notice of the sale shall contain an adequate description of the Property but need not contain the full legal description, and shall contain the material terms and conditions of sale set forth in this Order of Sale.

f. The Property shall be offered for sale “as is.”

**Redemption**

g. The sale shall be made without any right of redemption.

**Minimum Bid**

h. The PALS shall set, and may adjust, the minimum bid. If the minimum bid is not met or exceeded, the PALS may, without further permission of this Court, and under the terms and conditions in this Order of Sale, hold a new public sale and may reduce the minimum bid.

**Payment of Deposit and Balance**

i. At the time of the sale, the successful bidder(s) shall deposit with the PALS, by money order, certified check, or cashier's check made payable to the Clerk of the United States District Court for the District of North Dakota, a deposit in an amount between five (5) and twenty (20) percent of the minimum bid as specified by the PALS in the published notice of sale. Before being permitted to bid at the sale, potential bidders shall show to the PALS proof that they are able to comply with this requirement. No bids will be accepted from any person(s) who have not presented proof that, if they are the successful bidders(s), they can make the deposit required by this Order of Sale.

j. The successful bidder(s) shall pay the balance of the purchase price

for the Property within forty-five (45) days following the date of the sale. The money order, certified check, or cashier's check shall be made payable to the Clerk of the United States District Court for the District of North Dakota and shall be given to the PALS who will deposit the funds with the Clerk of this Court. If the bidder fails to fulfill this requirement, the sale shall be treated as null and void, and the deposit shall be forfeited and disbursed pursuant to further order of this Court, first to cover the expenses of the sale, then any amount remaining to be applied to the judgment for Bruce Johnson's federal tax liabilities entered in this case. The Property shall be again offered for sale under the terms and conditions of this Order of Sale or, in the alternative, sold to the second-highest bidder, at the sole discretion of the United States. The successful bidder(s) at the new sale or second-highest bidder, as the case may be, shall receive the Property free and clear of all rights, titles, claims, liens, and interests of the defaulting bidder(s).

k. The Clerk of this District Court is directed to accept the deposit(s) and the balance of the proceeds of the sale and deposit them into the Court's registry for distribution pursuant to further order of this Court.

#### **Confirmation of Sale**

l. The sale of the Property shall be subject to confirmation by this Court. On confirmation of the sale, ownership and possession of the Property shall transfer to the successful bidder(s), and all interests in, liens against, and titles and claims to, the Property that are held or asserted by the parties to this action are discharged and extinguished. When this Court confirms the sale, the Recording Official of Ward County, North Dakota, may cause the transfer of the Property to be reflected upon

that county's register of title.

m. After the confirmation of the sale, the IRS shall execute and deliver a deed under the authority of this Court conveying the Property, effective as of the date on which this Court confirms the sale, to the successful bidder(s) or as designated in writing by the successful bidder. Also, after this Court confirms the sale, and on receipt of the deed from the successful bidder, the Recording Official of Ward County, North Dakota, shall cause the transfer of the Property to be reflected upon that county's register of title. The successful bidder(s) shall pay, in addition to the amount of the bid, any documentary stamps and registry fees as provided by law.

n. All rights to rents of or from the Property arising after the final judgment in this action and before the confirmation of the sale of the Property shall constitute proceeds of the Property and such rents shall be turned over to, and paid to, the PALS for deposit and distribution in the same manner as the proceeds of the sale of the Property. On confirmation of the sale of the Property, all rights to product, offspring, rents, and profits of or from the Property arising thereafter shall transfer to the successful bidder(s) and all risks of losses associated with the Property shall transfer to the successful bidder(s).

3. **Preservation of the Property:** Up until the date on which this Court confirms the sale of the Property, Bruce Johnson and Elizabeth Johnson shall take all reasonable steps necessary to preserve the Property (including all buildings, improvements, fixtures and appurtenances on the Property) in its current condition including, without limitation, maintaining a fire and casualty insurance policy on the Property. Bruce Johnson and Elizabeth Johnson and all other occupants of the

Property shall neither commit waste against the Property, nor cause or permit anyone else to do so. The Defendants in this case shall do nothing that tends to reduce the value or marketability of the Property, nor shall they cause or permit anyone else to do so. The Defendants shall not record any instrument, publish any notice, or take any other action (such as running newspaper advertisements, posting signs, or making internet or social media postings) that may directly or indirectly tend to adversely affect the value of the Property or that may tend to deter or discourage potential bidders from participating in the public auction, nor shall they cause or permit anyone else to do so. If the Property is destroyed before the date on which this Court confirms the sale of the Property and Bruce Johnson or Elizabeth Johnson are entitled to insurance proceeds, the insurance proceeds shall be paid into the registry of this Court. Violation of this paragraph shall be deemed contempt of court and shall be punishable as such.

4. **Vacating the Property**: All persons occupying the Property shall vacate the Property permanently within thirty (30) days from the date of this Order of Sale, each taking with them his or her personal property (but leaving all improvements, buildings, fixtures, and appurtenances to the Property). The United States may, in writing and in its sole discretion, extend the time to vacate. If any person fails or refuses to vacate the Property by the date specified in this Order of Sale, or as extended by the United States, or attempts to re-enter the Property thereafter, the United States, including the PALS and/or the United States Marshals Service, is authorized to take all actions that are reasonably necessary to have those persons ejected or excluded.

a. The United States Marshals Service is authorized and directed to take any and all necessary actions, including but not limited to the use of reasonable force, to enter and remain on the premises, which includes, but is not limited to, the land, buildings, vehicles, and any other structures located thereon, for the purpose of executing this Order of Sale.

b. The United States Marshals Service is further authorized and directed to arrest and/or evict (and, if necessary, re-evict) from the premises any and all persons who obstruct, attempt to obstruct, or interfere or attempt to interfere, in any way with the execution of this Order of Sale.

5. **Abandoned Personal Property**: Any personal property remaining on the Property thirty (30) days after the date of this Order of Sale (or as extended in writing by the United States) is deemed forfeited and abandoned, and the PALS is authorized to dispose of it in any manner they see fit, including sale. If the abandoned personal property is sold, the proceeds of the sale are to be deposited into the registry of this Court and disbursed pursuant to further order of this Court, first to cover the expenses of the sale, then any amount remaining to be applied to the judgment for the federal tax liabilities entered in this case or as otherwise ordered. Money orders and checks for the purchase of the personal property shall be made payable to the Clerk of the United States District Court for the District of North Dakota and the Clerk of the Court is directed to accept cash, money orders, and checks, and deposit such items into the Court's registry for distribution as provided for pursuant to further order of this Court.

6. **Forwarding Address**: No later than two (2) business days after vacating the

Property pursuant to the deadline set forth in paragraph 4, above, Bruce Johnson or his agent(s) shall notify counsel for the United States in writing of a forwarding address where he can be reached.

7. **Access to the Property:** Up until the date on which this Court confirms the sale of the Property, the IRS, PALS, and their representatives are authorized to have free and full access to the Property in order to take any and all actions necessary to preserve and market the Property, including, but not limited to, retaining a locksmith or other person to change or install locks or other security devices on any part of the Property.

8. **Claims:** After the Court confirms the sale of the Property, the sale proceeds deposited with the Clerk of this Court shall be distributed: first, to reimburse any expenses the United States incurs in selling the Property; second, to the Ward County Treasurer for any unpaid local real property taxes; and third, equally distributed (a) to the United States to be applied to Bruce Johnson's unpaid federal income tax liabilities associated with the federal tax liens and (b) to Elizabeth Johnson.

**IT IS SO ORDERED.**

Dated this 12th day of July, 2023.

/s/ Daniel L. Hovland  
Daniel L. Hovland, District Judge  
United States District Court